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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
09/600,621	09/15/2000	Christine Andreis	2119-4203	9229

7590 01/31/2002

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1007 Market Street
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EXAMINER

NGUYEN, KIMBERLY T

ART UNIT	PAPER NUMBER
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1774

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DATE MAILED: 01/31/2002

Please find below and/or attached an Office communication concerning this application or proceeding.

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Office Action Summary	Application No. 09/600,621	Applicant(s) ANDREIS ET AL.	
	Examiner Kimberly T. Nguyen	Art Unit 1774	

-- **Th MAILING DATE of this c mmunication app ars on the cover sheet with th correspondenc address --**
Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133).
- Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☐ Responsive to communication(s) filed on ____.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-12 is/are pending in the application.
- 4a) Of the above claim(s) ____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) ____ is/are allowed.
- 6) ☒ Claim(s) 1-12 is/are rejected.
- 7) ☐ Claim(s) ____ is/are objected to.
- 8) ☐ Claim(s) ____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on ____ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
- 11) ☐ The proposed drawing correction filed on ____ is: a) ☐ approved b) ☐ disapproved by the Examiner.
If approved, corrected drawings are required in reply to this Office action.
- 12) ☐ The oath or declaration is objected to by the Examiner.

Priority under 35 U.S.C. §§ 119 and 120

- 13) ☒ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
a) ☒ All b) ☐ Some * c) ☐ None of:
1. ☒ Certified copies of the priority documents have been received.
2. ☐ Certified copies of the priority documents have been received in Application No. ____.
3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).
* See the attached detailed Office action for a list of the certified copies not received.
- 14) ☐ Acknowledgment is made of a claim for domestic priority under 35 U.S.C. § 119(e) (to a provisional application).
a) ☐ The translation of the foreign language provisional application has been received.
- 15) ☐ Acknowledgment is made of a claim for domestic priority under 35 U.S.C. §§ 120 and/or 121.

Attachment(s)

- | | |
|---|---|
| 1) <input checked="" type="checkbox"/> Notice of References Cited (PTO-892) | 4) <input type="checkbox"/> Interview Summary (PTO-413) Paper No(s). ____ |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948) | 5) <input type="checkbox"/> Notice of Informal Patent Application (PTO-152) |
| 3) <input type="checkbox"/> Information Disclosure Statement(s) (PTO-1449) Paper No(s) ____ | 6) <input type="checkbox"/> Other: _____ |

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DETAILED ACTION

Claim Objections

Claims 1, 4-5, and 10 are objected to because of the following informalities: In claims 1 and 4-5, the symbols "(s)" are improper. In claim 10, "PET" should be changed to "polyethylene terephthalate." Appropriate correction is required. ✓

Claim Rejections - 35 USC § 112

The following is a quotation of the second paragraph of 35 U.S.C. 112:

The specification shall conclude with one or more claims particularly pointing out and distinctly claiming the subject matter which the applicant regards as his invention.

Claims 1-12 are rejected under 35 U.S.C. 112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which applicant regards as the invention.

The term "substantially" in claims 1 and 2 is a relative term which renders the claim indefinite. The term "substantially" is not defined by the claim, the specification does not provide a standard for ascertaining the requisite degree, and one of ordinary skill in the art would not be reasonably apprised of the scope of the invention. ✓

In claim 12, it is unclear how master-batch is used and in what step of making the film. —

Claim Rejections - 35 USC § 103

The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

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Claims 1-12 are rejected under 35 U.S.C. 103(a) as being unpatentable over Minami et al., U.S. Pat. No. 4,399,179 in view of Miwa et al., U.S. Pat. No. 4,067,855.

Minami shows a polyester laminated film comprising a transparent layer of a biaxially stretched polyester film mainly composed of polyethylene terephthalate ^{crystalline} and two delustered layers of an at least uniaxially stretched polyester film mainly composed of polyethylene terephthalate copolymer (Abstract). Minami shows that the transparent and/or the delustered layers ^{amorphous} comprise pigments and dyes (column 6, lines 66-68 to column 7, lines 1-3). Minami shows that the delustered layers contain inert inorganic particles such as titanium oxide and that the particles should not be excessively large nor that the amount is too large that it impairs transparency (column 4, lines 4-30). Minami shows that the thicknesses of the delustered layers are from about 1 to 20 microns and that of the transparent layer is between 10 and 200 microns (column 4, lines 44-68). Minami shows that the layers are co-extruded in a process (column 10, lines 25-30). Minami shows that the master batch method can be effectively utilized to make the film (column 4, lines 42-43).

Minami does not show the weight percentages of pigment, the ratio of the layers' thicknesses, or particle sizes as in instant claims 1 and 3-7. However, weight percentages of pigment, ratios of the layers' thicknesses, or particle sizes are properties which can be easily determined by one of ordinary skill in the art. With regard to these limitations, absent a showing of unexpected results, it is obvious to modify the conditions of a composition because they are merely the result of routine experimentation. The experimental modification of prior art in order to optimize operating conditions (e.g. weight percentages of pigment, ratios of the layers'

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thicknesses, or particle sizes) fails to render claims patentable in the absence of unexpected results.

Minami does not show that the pigments or inert inorganic particles used is titanium dioxide as in instant claim 9. Miwa shows a film forming polyester composition wherein finely-divided inert particles are added to the polyesters such as titanium dioxide (column 1, lines 37-40). It would have been obvious to one of ordinary skill in the art at the time the invention was made to use titanium dioxide particles to color the delustered layers of Minami since inert particles such as titanium dioxide are known to be compatible with polyester layers.

Conclusion

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Kimberly Nguyen whose telephone number is (703) 308-8176. The examiner can normally be reached on Monday to Friday.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Cynthia H. Kelly can be reached on (703) 308-0449. The fax phone numbers for the organization where this application or proceeding is assigned are (703) 872-9310 for before final communications and (703) 872-9311 for after final communications.

Any inquiry of a general nature or relating to the status of this application or proceeding should be directed to the receptionist whose telephone number is (703) 308-0661.

**CYNTHIA H. KELLY
SUPERVISORY PATENT EXAMINER
TECHNOLOGY CENTER 1700**

